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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/599,206

09/22/2006

Fernando Alberto Grazziotin

GRAZ0101PUSA

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EXAMINER

BENVENUTI II, MATTHEW GEORGE

ART UNIT

PAPER NUMBER

4159

MAIL DATE

DELIVERY MODE

11/07/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/599,206	<b>Applicant(s)</b> GRAZZIOTIN, FERNANDO ALBERTO	
	<b>Examiner</b> Matt Benvenuti	<b>Art Unit</b> 4159	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,3,5 and 7-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,5 and 7-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 June 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>IDS (6/12/2007)</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Specification***

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

1. The disclosure is objected to because of the following informalities:

- Reference 1 used for both a bag and the set
- Page 5, Line 29: Reference 1 in the wrong location
- Reference 28 defined as the other

Appropriate correction is required.

### ***Claim Objections***

2. Claim 7 is objected to because of the following informalities: Claim 7 repeats the one or more lateral openings of Claim 3, if they are the same lateral-openings, Claim 7 should be: "characterized by the (or said) one or more lateral openings...". Appropriate correction is required. For purposes of examination it has been taken to be the same lateral openings in Claim 7 as in Claim 3.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1, 3, 5, and 7-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claims 1 and 8 recite the limitations "the external bag" and "the inner bags" in Claims 1 and 8. There is insufficient antecedent basis for this limitation in the claim.

6. Claim 8 further recites the limitation "the respective excesses" in Claim 8. There is insufficient antecedent basis for this limitation in the claim.

7. Claim 9 further recites the limitation "lateral opening(s)" in Claim 8. There is insufficient antecedent basis for this limitation in the claim.

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8. Claims 1, 3, 5, and 7-11 the preamble is unclear because it states the claims are drawn to a bag formed by a set of detachable bags, however the applicant claims a set of detachable bags, and not a bag, as the set of detachable bags contains a plurality of bags.

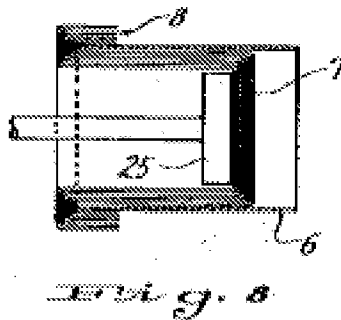
***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by US 3,512,338 (Nestler).



11. In re Claims 1, Nestler (Figure 8 shown above) teaches a bag characterized by:

- **Being composed of multiple detachable bags forming a set (5) in which each bag is within the subsequent ones** (Column 2, Lines 26-30 and Figure 8), **except for the external bag** (the external bag in the stack is in contact with the cardboard support 6 in Figure 8, and this not nested inside another bag); **and**

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- **having an opening for the removal of the inner bags** (Column 2, Lines 57-61), **which will be successively detached from the first** (the first bag is being taken as the external bag, such that each bag is detached from the stack until the first or external bag remains), **as used**.

### ***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

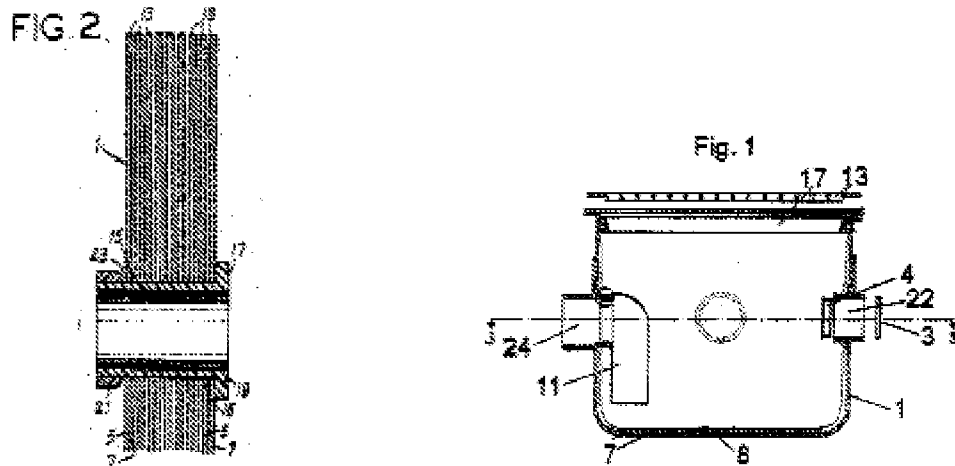
1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

14. Claims 3, 5, and 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nestler as applied to Claim 1 above in view of US 3,198,325 (White) and further in view of US 2003/0141303 (Grazziotin).

15. In re Claim 3, Nestler teaches the claimed invention except for a bushing in the bags with one or more lateral-openings and by this bushing having external-surface-

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connection for connection in lateral-opening(s) of one or multiple bags and internal-surface-connection for connection container inlet or outlet.



16. White (Figure 2 shown above) teaches a stack of bags (1) with a bushing (17) extending through a circular opening in the sheets of material comprising individual bags (Figure 2). Grazziotin (Figure 1 shown above) teaches a removable liner (7) for a tank (1) with both an inlet (22) and an outlet (24). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the nested bags as taught by Nestler with a circular opening and bushing as taught by White to help ensure that nested bags remained in the nested configuration. Further the combination of Nestler/White is capable of being used in an application like the one taught by Grazziotin in which the bushings are attached to an inlet and outlet.

17. In re Claims 5 and 7, Nestler/White/Grazziotin further teaches a bag formed by a set of attachable bags characterized by:

- Presenting one or more lateral openings(Grazziotin, Figure 1); and

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- having an intermediate bushing in each lateral opening (It would have been obvious to place a bushing in each lateral opening of Nestler/White/Grazziotin, since White teaches it is known to place bushings in the openings formed in a stack of plastic sheets).

18. In re Claim 8, Nestler/White/Grazziotin teaches the bag of Claim 1 discussed above further characterized by:

- a turning of each bag, which results in each bag alternating positions with the previous and posterior bags, resulting in the non-matching of the respective excesses of the bag walls in their lower end (Nestler, Column 5, Lines 1-4).

19. In re Claim 9, Nestler/White/Grazziotin further teaches a bag formed by a set of detachable bags characterized by:

- Using a bushing in the bags with other openings (the other openings have been taken to include the lateral openings, as they are other openings than the one used for removal of the bags); and
- this bushing having external-surface-connection for connection in lateral-opening(s) of one or multiple bags and internal-surface-connection for connection to container inlet or outlet (See discussion of Claim 3 above).

20. In re Claim 10 and 11, Nestler/White/Grazziotin further teaches a bag formed by a set of attachable bags characterized by:

- Presenting one or more lateral openings; and
- having an intermediate bushing in each lateral opening (See Claim 7 discussion above).



### ***Conclusion***

21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 3,212,681 (Weikert) teaches a container which can be rotated 90 degrees and nested within a like container, the rotation limits the extent to which the two containers can be nested. US 4,978,231 (Ling et al) teaches a disposable bag assembly comprising plastic bags nested with one inside another. US 5,363,980 (Mulcahy) teaches a disposable waste container with a stack of nested plastic bags, in which the top of the bag assembly is folded over the container wall. US 6,102,239 (Wien) teaches a packaging system comprising nested liners that are removably attached to each other, with at least two apertures through the nested liners.
22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matt Benvenuti whose telephone number is (571)270-5704. The examiner can normally be reached on Monday - Friday: 8am-5pm.
23. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Nguyen can be reached on 571-272-4491. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
24. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MB

/Quang T Van/  
Primary Examiner, Art Unit 3742